REMARKS

In the non-final office action mailed on July 9, 2008, claims 1, 3 – 6 and 8 – 19 were rejected under 35 U.S.C. §103(a) over U.S. Patent No. 6,141,530 (to Rabowsky) in view of U.S. Patent No. 6,698,020 (to Zigmond et al.); claims 2 and 7 were rejected under §103(a) over Rabowsky in view of Zigmond et al., and further in view of U.S. patent No. 6,424,998 (to Hunter); and claims 1 – 4 and 14 – 19 were also rejected under 35 U.S.C. §112, ¶2.

With regard to the §112, ¶2 issues, each of claims 1, 14 and 16 has been amended to address the §112, ¶2 issues raised in the office action.

With regard to Hunter, the 102(e) date for the Hunter reference is April 28, 1999. Filed herewith is a 37 C.F.R. §1.131 Affidavit of David H. Sprogis that demonstrates that the invention as claimed in the present application was conceived at least as early as December 5, 1998 (¶4), and continuously and diligently developed until first being reduced to practice on March 17, 2000 (¶14) and further until July 28, 2000 (¶¶8 – 14), when U.S. Patent Application Ser. No. 09/627,870 was filed. The present application claims priority to U.S. Patent Application Ser. No. 09/627,870 filed July 28, 2000, which claims priority to U.S. Provisional Patent Application Ser. No. 60/148,807 filed August 13, 1999. The Hunter reference, therefore, is not prior art to the present application under §102(e), and the applicant respectfully requests that the rejection over Hunter be withdrawn.

Applicant respectfully submits that because Rabowsky discloses that its schedule of movies must be ***authorized*** (Rabowsky, col.2, lines 2 – 3), the schedule of movies is not disclosed to be automated. With regard to advertisements, the brief disclosure in Rabowsky of inserting an advertisement into a play-back schedule is also not automated. In fact, Rabowsky expressly states that a "theatre operator interface provides the operator with the ability to modify

the schedule" (Rabowsky, col.12, lines 17 – 18). Further, the example of such insertion of advertisements in Rabowsky, is disclosed to be a ***manual*** insertion (Rabowsky, col.12, lines 26 – 28). The advertisements are also required to "not violate contractual terms" (Rabowsky, col. 12 , line 21).

Applicant respectfully submits, therefore, that Rabowsky ***teaches away*** from providing an automated selection system for advertisements because Rabowsky teaches that advertisements are manually selected. One skilled in the art would not have been motivated to modify Rabowsky in a way that is contrary to the teachings of Rabowsky. *Ex Parte Smoth*, 2007 WL 4357843 (Bd.Pat.App. & Interf. 2007) (agreeing with the applicant that the prior art teaches away from the claimed subject matter); *Ex Parte Cross*, 2008 WL 2819359 (Bd.Pat.App. & Interf. 2008) (to modify the prior art to provide the functionality of the claim invention would "employ a completely different principle of operation"); and *Ex Parte Val Mandrusov*, 2008 WL 2845083 (modifying the prior art would "frustrate the principles of operation of the respective references."). Each of independent claims 1, 5, and 11, on the other hand, requires, in part, ***automated*** scheduling means. The use of the term automated herein is intended not to narrow the claim, but to make clear that the scheduling means is automated.

With regard to Zigmond et al., this reference discloses that a "targeted advertisement" may be selected for insertion into an existing "programming feed" and does not disclose the creation of a ***schedule*** of advertisements (Zigmond et al., col.6, lines 4 – 6). In particular, Zigmond et al. discloses that the programming feed includes national broadcast or cable programming that includes designated spots for local advertisements (Zigmond et al., co.1, lines 62 – 64; col.2, lines 26 – 30; and col.7, lines 5 – 8). Selecting individual ads for specific time allocated spots in a programming feed is not the same as creating a schedule of targeted ads, which is a far more complex undertaking. One skilled in the art would not have been motivated

to employ an advertisement insertion system of Zigmond et al. to create a system that automatically generates a schedule of advertisements for a pre-showing at theatres because Zigmond et al. discloses only that an individual pre-existing time slot may be filled based on target criteria.

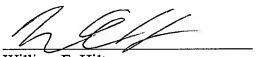
The present invention requires, in part, automated schedule means. In particular, amended independent claim 1 includes an automated schedule means that accesses a subset of stored digital content data in a computer storage unit responsive to associated digital context data and show schedule information. Amended independent claim 5 includes, in part, automated schedule means for accessing a subset of digital content data in a computer storage unit responsive to associated digital context data and show schedule information. Amended independent claim 11 includes, in part, automated schedule means for accessing a first subset of digital content data in a computer storage unit responsive to a first subset of digital context data and show schedule information.

Applicant further submits that these features of the claims are not taught or suggested by any combination of the references. There is no disclosure in either of the Rabowsky reference or the Zigmond et al. reference of a system that provides such automated scheduling.

Each of claims 2 – 4 depends directly from claim 1 and further limits the subject matter thereof. Each of claims 6 – 10 depends directly from claim 5 and further limits the subject matter thereof. Each of claims 12 – 19 depends directly or indirectly from claim 11 and further limits the subject matter thereof.

Applicant respectfully submits, therefore, that each of claims 1 – 19 is in condition for allowance. Favorable action consistent with the above is respectfully requested.

Respectfully submitted,



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